IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE TWENTY EIGHTH DAY OF JULY
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE C.V.RAMULU

WRIT PETITION NO : 28177 of 1998

Between:

M.Vidyavathi, W/o late Dr. M. Krishnababu,
Director, Sharmika Vidyapeeth, Hyderabad.,

R/o H.No.15-52, Errum Manzil Colony, Hyderabad.

..... PETITIONER

AND

1 The Secretary to Government of India, Ministry of Human Resource Development, Department of Education, Government of India, New Delhi.
2 The Chairman, Shramik Vidyapeeth, Hyderabad & Secretary to Government, Education Department., Secretariat, Hyderabad.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ, order or direction more in the nature of certiorari calling for the records relating to the impugned Proc.No.F.8/28/98-D.III(AE), dt.11.9.98 issued by the Ministry of Human Resource Development, Dept. & Education, Govt. of India and quash the same by holding that the petitioner is entitled to remain in service as Director, Shramika Vidyapeeth, Hyderabad, till she attains the age of 60 years on par with other counter parts working in Govt. of India and also employees working in autonomous bodies/Organisations and other sister Organisations as was extended by Govt. of India vide Memo.No.25012/8/98-Estt,(A) dt.30-5-98 issued by Govt. of India and denying the same to the petitioner is as illegal, arbitrary, discriminatory & Subversive of Art.14, 16 & 21 of the Constitution & also apposed to all canons of equity, justice and fair play.

Counsel for the Petitioner: MR.D.LINGA RAO

Counsel for the Respondent No.1: MR.A.RAJASHEKAR REDDY

(SC FOR CG)

Counsel for the Respondent No.2: MR. M. SUBHRAHMANYAM

(GP FOR SCHOOL EDUCATION)

The Court made the following:

ORAL ORDER:

The short point that falls for consideration in this writ petition is, whether the petitioner is entitled to be continued in service till she attains the age of 60 years as applicable to the employees of the Central Government?

Admittedly, the petitioner was appointed into the respondent organization- Shramik Vidyapeeth, Hyderabad, which is a society registered under the Societies Registration Act, and it was the practice of the society from its inception that the age of superannuation for its employees was fixed at 58 years.

It is asserted by the respondents in their counter that the raising of age of superannuation of the employees of Central Government from 58 years to 60 years by the Central Government was not applicable to the employees working in the society. Further, the respondent-society also relied upon a Clause, which was incorporated into the guidelines issued by the Central Government in the year 1991, which reads as under:

> "It has further been decided to add the following proviso to F.R.56(a) as second proviso:-
>
> Provided further that a Government servant who has attaining the age of fifty eight years on or before the first day of May, 1998 and is on extension in

service, shall retire from service, on expiry of his extended period of service."

The learned Counsel for the petitioner contends that each and every aspect of the service conditions of the society are being dealt with as per the service conditions of the Central Government employees. Therefore, once the Central Government enhanced the age of superannuation of its employees from 58 years to 60 years, it must be automatically applied to the employees of the society also. Therefore, the petitioner is entitled to be continued in service till she attains the age of 60 years.

The learned Counsel except saying that *mutatis mutandis* the rules of the Central Government are applicable to the society, no piece of evidence or document has been placed before this Court to show that the employees of the second respondent are also entitled to be continued in service up to the age of 60 years. Further, there is no resolution passed by the Shramik Vidyapeeth, Hyderabad, adopting the Central Government Rules, insofar as, raising of age of superannuation of the employees from 58 years to 60 years.

In the absence of any positive evidence, either any Rule, circular or resolution of the Central Government or the resolution of the respondent society, and in the light of the above guidelines issued by the Central Government in the year 1991, I am of the considered opinion that the writ petition is devoid of merits and is liable to be dismissed.

Accordingly, the writ petition is dismissed. No costs.

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28-07-2004

es/prk

ASSISTANT REGISTRAR

// TRUE COPY //

SECTION OFFICER

To

1 The Secretary to Government of India, Ministry of Human Resource Development, Department of Education, Government of India, New Delhi.
2 The Chairman, Shramik Vidyappeth, Hyderabad & Secretary to Government, Education Department., Secretariat, Hyderabad.

3. Two CCs to the Government Pleader for School Education, High Court Buildings, Hyderabad (OUT).

4. Two CD copies.

*Form-NIC-OGS/WP{**TSSB**}*